

REMARKS

The enclosed is responsive to the Examiner's Office Action mailed on September 7, 2006. At the time the Examiner mailed the Office Action claims 32-49 were pending. By way of the present response the Applicants have: 1) amended no claims; 2) added no claims; and 3) canceled no claims. As such, claims 32-49 are now pending. The Applicants respectfully request reconsideration of the present application and the allowance of all claims now presented.

Claim Rejections

35 U.S.C. 103(a) Rejections

Claims 32-49 stand rejected under 35 U.S.C. 103(a) as being unpatentable over U.S. Patent 6,697,842 to Smith, et al., (hereinafter "Smith") in view of U.S. Patent Publication 2002/0143757 to Yu (hereinafter "Yu").

In order to establish a prima facie case of obviousness:

"First, there must be some suggestion or motivation, either in the references themselves or in the knowledge generally available to one of ordinary skill in the art, to modify the reference or to combine reference teachings. Second, there must be a reasonable expectation of success. Finally, the prior art reference (or references when combined) must teach or suggest all the claim limitations." In re Vaech, 947 F.2d 488, 20 USPQ2d 1438 (Fed. Cir. 1991). Manual of Patent Examining Procedure (MPEP), 8th Edition, August 2001, §2143.

With respect to amended independent claim 32, Applicant teaches and claims: “A method comprising: evaluating a communication network context; prioritizing a plurality of information items based on at least the communication network context; transferring at least one high priority information item; and subsequently transferring at least one additional information item for future use.”

Smith teaches a device and application to present information to a user based on the user’s input and/or other user preferences. (Smith, Fig. 4 and Col. 4, line 25 to Col. 5, line 36) The context filtering performed by Smith is not the same as the evaluating of a communication network context as taught and claimed by Applicant. Smith’s dynamic context filtering is described in detail in Figure 9 and Col. 5, line 37 to Col. 7, line 33. First, the user selects the desired web service (step 905). A location program then detects the location of the communication device (step 910). Next, the user enters other information (business type, location, time, etc), and finally is provided with a filtered list of services based on the user’s input. Smith discloses only a device (Fig. 4, 340) that is capable of dynamically processing and filtering data that it receives over a network. Smith does not disclose evaluating information about the communication mediums available (e.g., communication network context).

Yu discloses a prioritization scheme for prioritizing search results. (paragraph 0004) Yu does not disclose evaluating information about the communication mediums available (e.g., communication network context).

Since neither Smith nor Yu teach or suggest “evaluating a communication network context,” as required by claim 32, a prima facie case of obviousness has not been established, and claim 32 is in condition for allowance.

Each of the other pending independent claims 39 and 46 recites limitations that are similar to the limitations of claim 32, although some differences may exist among the limitations of the other pending independent claims. These similar limitations nevertheless patentably distinguish claims 39 and 46 over Smith and Yu. Therefore, for at least these reasons, Applicants respectfully submit that neither Smith, nor Yu, independently or in combination, teach or suggest all claim limitations of claims 32, 39 and 46.

Claims 33-38 are dependent upon claim 32. Claims 40-45 are dependent upon claim 39. Claims 47-49 are dependent on claim 46. Thus, for at least the same reasons advanced above with respect to independent claims 32, 39, and 46, Applicant respectfully submits that neither Smith, nor Yu, independently or in combination, teach or suggest all claim limitations of claims 33-38, 40-45, and 47-49.

In light of the comments above, the Applicant respectfully requests the allowance of all claims.

CONCLUSION

Applicant respectfully submits that all rejections have been overcome and that all pending claims are in condition for allowance.

If there are any additional charges, please charge them to our Deposit Account Number 02-2666. If a telephone conference would facilitate the prosecution of this application, the Examiner is invited to contact Cyndi M. Wheeler at (916) 356-5358.

Respectfully Submitted,
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